IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.223 OF 2003

The Commissioner of Income Tax-V, Pune .. Appellant.
V/s.
Alfa Laval (India), .. Respondent.

Ms.S.V. Bharucha i/b. K.B. Rao for the appellant.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 4TH OCTOBER, 2004.

P.C. :

Heard.

2. In the memo of appeal two questions of law have been proposed which read thus :

> A. On the facts and circumstances of the case and in law the Tribunal failed to appreciate that the closing stock should be valued at gross purchase price and not net of MODVAT and thereby erred in deleting the addition of Rs.37,60,366/- made by the A.O. to the closing stock ?
>
> B. On the facts and circumstances of the case and in law the Tribunal has erred in directing the A.O. to allow deduction of share issue expenses amounting to Rs.4,51,079/- treating the same as revenue expenses ?

3. In so far as proposed question A is

concerned, the learned counsel for the revenue fairly conceded that the said question stands concluded by the judgment of the Supreme Court in the case of Commissioner of Income Tax V/s. Indo Nippon Chemicals Co. Ltd [261 ITR 275].

4. As regards question B, the learned counsel for the revenue admitted that this Court in the case of Bombay Burmah Trading Corporation Limited V/s. Commissioner of Income Tax, Bombay City - IV [145 ITR 793] and Commissioner of Income Tax V/s. General Insurance Corporation of India (No.1) [254 ITR 203] has taken a view which goes against the revenue.

5. In our considered view question A stands answered by the judgment of the Supreme Court and Question B is concluded by the two judgments of this court referred to above. In this view of the matter none of the questions can be said to be substantial questions of law.

6. The appeal is dismissed in limine.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)